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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/721,695	11/25/2003	Russell Bonaventura	LEAP:126US	6297
24041	7590	09/20/2005		
SIMPSON & SIMPSON, PLLC 5555 MAIN STREET WILLIAMSVILLE, NY 14221-5406			EXAMINER PRITCHETT, JOSHUA L	
			ART UNIT	PAPER NUMBER
			2872	
DATE MAILED: 09/20/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

h.2

<b>Office Action Summary</b>	<b>Application No.</b> 10/721,695	<b>Applicant(s)</b> BONAVENTURA ET AL.	
	<b>Examiner</b> Joshua L. Pritchett	<b>Art Unit</b> 2872	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 August 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 2-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

This action is in response to Amendment filed August 8, 2005. Claims 2-11 and 15-17 have been amended, claim 1 has been cancelled and claim 18 has been added as requested by the applicant.

#### ***Claim Objections***

Claim 15 is objected to because of the following informalities: claim 15 depends from claim 5 and includes the phrase, "said gripping means." Claim 5 does not provide proper support for the phrase in claim 15. Claim 15 will be examined as if the claim said, "a gripping means." Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 2, 4-6, 8, 11, 17 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Leitz Service ("Ergolux B 0 1-Ersatzteilliste").

Art Unit: 2872

Regarding claims 2 and 17, Leitz Service discloses an apparatus for controlling a microscope stage assembly comprising an upper stage (1); a slide mount (44); a rod (25) and a releasable attachment means (59), where the releasable attachment means is arranged to attach the rod to the slide mount (Figure), the upper stage is arranged to move in a first direction in response to movement of the rod in the first direction, and the slide mount is arranged to move in a second direction, orthogonal to the first direction, in response to a movement of the rod in the second direction (Figure).

Regarding claim 4, Leitz Service discloses the releasable attachment means is a screw (59). Element, 59, is described as a Schraube, which translates to mean a screw.

Regarding claim 5, Leitz Service discloses the rod comprises a distal portion, an intermediate portion and a proximal portion (Figure).

Regarding claim 6, Leitz Service discloses the proximal portion is attached to the slide mount, the intermediate portion connects the distal and proximal portion, and the distal portion is disposed in space substantially perpendicular to a longitudinal axis of the stage assembly (Figure).

Regarding claim 8, Leitz Service discloses a joystick (25), wherein the releasable attachment means is arranged to attach the joystick to the slide mount (Figure). Note that for this claim the rod has been renumbered to element 10 and the joystick is element 25.

Regarding claim 11, Leitz Service discloses the rod comprises a one-piece, pre-formed substantially solid rod with a releasable attachment means (Figure).

Regarding claim 18, Leitz Service discloses a slide mount guide (10) fixedly connected to the slide mount, where the releasable attachment means is arranged to attach the rod to the slide mount (Figure).

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3, 7, 9, 10, 12-14 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Leitz Service ("Ergolux B 0 1-Ersatztelliste") in view of Nishida (US 2003/0169492).

Leitz Service teaches the invention as claimed including the rod being substantially solid (Figure), but lacks reference to a substantially hollow circular tube, gripping means, parallel protuberances and grooves. Nishida teaches the rod is a substantially hollow, circular tube (para. 0052; Fig. 4). Nishida further teaches a gripping means (12) arranged to be detachably secured to the rod (Fig. 7). Fig. 7 shows a screw used to attach the gripping means (12) to the rod. Nishida further teaches the use of a plurality of grooves in the rod spaced substantially parallel to one another (Fig. 3). Nishida further teaches a plurality of protuberances disposed in space

Art Unit: 2872

substantially parallel to one another (Fig. 3). Nishida further teaches the distal portion of the rod tapering at the end (Fig. 6). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to have the Leitz Service rod be a hollow circular tube as taught by Nishida for the purpose of allowing the rod to be easier to grip and weigh less to minimize the momentum transfer to the slide mount.

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Leitz Service ("Ergolux B 0 1-Ersatztelliste") in view of Yoshioka (US 5,907,157).

Leitz Service teaches the invention as claimed but lacks reference to a square gripping means. Yoshioka teaches the use of a substantially square (28) gripping means, rotatable plate arranged to be detachable secured to the distal portion of the rod (Fig. 2; col. 4 lines 19-30). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have the Leitz Service rod include the Yoshioka square attachment for the purpose of allowing the user to grip the rod in a more comfortable position to allow easier movement of the upper stage through the rod.

### *Response to Arguments*

Applicant's arguments, see Amendment, filed August 8, 2005, with respect to objection to the specification have been fully considered and are persuasive. The objection of the specification has been withdrawn.

Applicant's arguments, see Amendment, filed August 8, 2005, with respect to the rejection(s) of claim(s) 2-17 under Domanik have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration of the newly amended claims, a new ground(s) of rejection is made in view of Leitz Service ("Ergolux B 0 1-Ersatzteilliste").

### *Conclusion*

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Art Unit: 2872

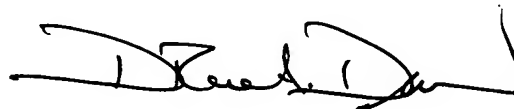
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joshua L. Pritchett whose telephone number is 571-272-2318.

The examiner can normally be reached on Monday - Friday 7:00 - 3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Drew A. Dunn can be reached on 571-272-2312. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JLP



**DREW A. DUNN**  
**SUPERVISORY PATENT EXAMINER**